

Orig. 4

Exhibit 1
Original Agreement

RESOLUTION NO. 2017- 236

CITY OF POMPANO BEACH
Broward County, Florida

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF POMPANO BEACH, FLORIDA, APPROVING
AND AUTHORIZING THE PROPER CITY OFFICIALS TO
EXECUTE A LICENSE AGREEMENT BETWEEN THE
CITY OF POMPANO BEACH AND LIVING WATER SURF
SCHOOL, LLC; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO
BEACH, FLORIDA:**

SECTION 1. That an Agreement between the City of Pompano Beach and Living Water Surf School, LLC, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Living Water Surf School, LLC.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 9th day of May, 2017.



LAMAR FISHER, MAYOR

ATTEST:



ASCELETA HAMMOND, CITY CLERK

City of Pompano Beach

LICENSE AGREEMENT

with

Living Water Surf School LLC

Exhibit 1
Original Agreement

TABLE OF CONTENTS

<u>Article</u>	<u>Title</u>	<u>Page</u>
1	Representations	1
2	Non-Assignability and Subcontracting	2
3	Insurance	3
4	Term and Renewal	3
5	Recordkeeping, Inspection, Audit and Public Records Procedures	3
6	Responsibilities of LICENSEE	5
7	Responsibilities of CITY	7
8	Miscellaneous Terms and Conditions	7
9	Indemnification of CITY	8
10	Independent Contractor	8
11	No Discrimination	9
12	Public Entity Crimes Act	9
13	Notices and Demands	9
14	Governing Law and Venue	10
15	Contract Administrator	10
16	No Contingent Fee	10
17	Attorney's Fees	10
18	Force Majeure	11
19	Waiver and Modification	11

Exhibit 1
Original Agreement

TABLE OF CONTENTS, cont.

<u>Article</u>	<u>Title</u>	<u>Page</u>
20	Severability	11
21	Approvals	11
22	Absence of Conflicts of Interest	12
23	Binding Effect	12
24	License not Lease	12
25	Termination	12
26	No Waiver of Sovereign Immunity	13
27	City's Right to Authorize Use of the City Property	13
28	Counterparts	13
29	Entire Agreement and Interpretation	13

Exhibit 1
Original Agreement

INDEX OF EXHIBITS

Exhibit A	Scope of Authorization
Exhibit B	Insurance
Exhibit C	Accounting and Recordkeeping Procedures
Exhibit D	City's Youth Programs Background Screening Policy

Exhibit 1
Original Agreement

THIS LICENSE AGREEMENT ("Agreement"), entered into this 12th day of May, 2017, by and between:

CITY OF POMPANO BEACH, a municipal corporation located in Broward County, Florida (hereinafter "CITY"),

and

Living Water Surf School LLC, a Florida limited liability company (hereinafter "LICENSEE").

WHEREAS, LICENSEE desires to utilize the City's North Ocean Park located at 3424 NE 16th Street in Pompano Beach (the "Property") to provide instruction in ocean awareness and surfing fundamentals (collectively the "Program" described in Exhibit A, Scope of Authorization);

WHEREAS, CITY has determined that entering into this Agreement with LICENSEE to provide Program at the Property is in the best interest of the public; and

WHEREAS, CITY and LICENSEE desire to enter into this Agreement setting forth the parties' mutual understandings and undertakings.

NOW, THEREFORE, in consideration of the conditions, covenants and mutual promises herein contained, CITY and LICENSEE agree as follows.

ARTICLE 1
REPRESENTATIONS

A. **Representations of CITY.** CITY makes the following representations to LICENSEE, which CITY acknowledges LICENSEE has relied upon in entering into this Agreement.

1. This Agreement is a valid, binding and permissible activity within the power and authority of the CITY and does not violate any CITY Code, Charter provision, rule, resolution, ordinance, policy or agreement of the CITY or constitute a default of any agreement or contract to which the CITY is a party.

2. The individuals executing the Agreement on behalf of the CITY are duly authorized to take such action, which action shall be, and is, binding upon the CITY.

3. LICENSEE shall be entitled to rely upon the accuracy and completeness of any information supplied by CITY or by others authorized by the CITY's Recreation Program Administrator.

Exhibit 1
Original Agreement

B. **Representations of LICENSEE.** LICENSEE makes the following representations to CITY, which CITY relies upon in entering into this Agreement.

1. LICENSEE is a Florida Limited Liability Company duly organized, existing and in good standing under the laws of the State of Florida with the power and authority to enter into this Agreement.

2. LICENSEE's execution, delivery, consummation and performance under this Agreement will not violate or cause LICENSEE to be in default of any provisions of its governing documents, rules and regulations or any other agreement to which LICENSEE is a party or constitute a default thereunder or cause acceleration of any obligation of LICENSEE thereunder.

3. The individual executing this Agreement and related documents on behalf of LICENSEE is duly authorized to take such action which action shall be, and is, binding on LICENSEE.

4. There are no legal actions, suits or proceedings pending or threatened against or affecting LICENSEE or its principals that LICENSEE is aware of which would have any material effect on LICENSEE's ability to perform its obligations under this Agreement.

5. LICENSEE represents it has the ability, skill and resources to complete its requisite responsibilities under this Agreement.

6. CITY shall be entitled to rely upon the professional administrative, management and interpersonal skills of LICENSEE or others authorized by LICENSEE under this Agreement.

7. LICENSEE represents and warrants it has and will continue to maintain all licenses and approvals required to conduct business and provide services under this Agreement and that it will at all times conduct its activities in a professional, reputable manner.

8. LICENSEE agrees to be bound by all terms, conditions, duties, obligations and specifications set forth in this Agreement.

ARTICLE 2
NON-ASSIGNABILITY AND SUBCONTRACTING

A. This Agreement is not assignable and LICENSEE agrees it shall not sell, assign, transfer, merge or otherwise convey any of its interests, rights or obligations under this Agreement, in whole or in part, to any other person, corporation or entity without prior written approval from CITY.

B. Any attempt by LICENSEE to assign or transfer any of its rights or obligations under this Agreement without first obtaining CITY's written approval shall result in CITY's immediate cancellation of this Agreement. Specifically, no formal assignment of any right or

Exhibit 1
Original Agreement

obligation under this Agreement shall be binding on CITY without the formal written approval of the City Commission of Pompano Beach.

C. This Agreement and the rights and obligations therein shall not be assignable or transferable by any process or proceeding in court, or by judgment, execution, proceedings in insolvency, bankruptcy or receivership. In the event of LICENSEE's insolvency or bankruptcy, CITY may, at its option, terminate and cancel this Agreement without any notice of any kind whatsoever, in which event all rights of LICENSEE hereunder shall immediately cease and terminate.

D. Nothing herein shall be construed to create any personal liability on the part of CITY, its agents, officers or employees nor shall it be construed as granting any rights or benefits hereunder to anyone other than CITY and LICENSEE.

ARTICLE 3
INSURANCE

LICENSEE shall maintain insurance in the amounts and subject to all conditions set forth in Exhibit B and shall not commence operations under this Agreement until proof of insurance detailing the terms and provisions of coverage has been received and approved in writing by the CITY's Risk Manager, which approval shall not be unreasonably withheld.

ARTICLE 4
TERM AND RENEWAL

In accordance with the Scope of Authorization attached as Exhibit A, the term of this Agreement shall commence upon execution by both parties.

In the event City determines the LICENSEE to be in full compliance with this Agreement and LICENSEE's performance to be satisfactory, then City, with City Commission approval, shall have the option to renew this Agreement for an additional two (2) periods of one (1) year upon the written consent of both the City and the LICENSEE, and provided that City will provide notification within sixty (60) days of termination date of its intention.

ARTICLE 5
RECORDKEEPING, INSPECTION, AUDIT
AND PUBLIC RECORDS PROCEDURES

A. LICENSEE shall use such accounting methods and procedures as may be prescribed by CITY, in accordance with generally accepted accounting principles, which shall include but not be limited to, those methods and procedures set forth in this Article and in Exhibit C.

B. Public Records.

Exhibit 1
Original Agreement

1. The CITY of Pompano Beach is a public agency subject to Chapter 119, Florida Statutes. The LICENSEE shall comply with Florida's Public Records Law, as amended. Specifically, the LICENSEE shall:

a. Keep and maintain public records required by the CITY in order to perform the service.

b. Upon request from the CITY's custodian of public records, provide the CITY with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the LICENSEE does not transfer the records to the CITY.

d. Upon completion of the Agreement, transfer, at no cost to the CITY, all public records in possession of the LICENSEE, or keep and maintain public records required by the CITY to perform the service. If the LICENSEE transfers all public records to the CITY upon completion of the Agreement, the LICENSEE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LICENSEE keeps and maintains public records upon completion of the contract, the LICENSEE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records in a format that is compatible with the information technology systems of the CITY.

2. Failure of the LICENSEE to provide the above described public records to the CITY within a reasonable time may subject LICENSEE to penalties under 119.10, Florida Statutes, as amended.

PUBLIC RECORDS CUSTODIAN

**IF THE LICENSEE HAS QUESTIONS REGARDING
THE APPLICATION OF CHAPTER 119, FLORIDA
STATUTES, TO THE LICENSEE'S DUTY TO PROVIDE
PUBLIC RECORDS RELATING TO THIS
AGREEMENT, CONTACT THE CUSTODIAN OF
PUBLIC RECORDS AT:**

**CITY CLERK
100 W. Atlantic Blvd., Suite 253
Pompano Beach, Florida 33060**

Exhibit 1
Original Agreement

(954) 786-4611
RecordsCustodian@copbfl.com

ARTICLE 6
RESPONSIBILITIES OF LICENSEE

A. LICENSEE shall organize and conduct the Program described in Exhibit A consistent with CITY policies which specifically require that LICENSEE at all times perform its obligations hereunder in a professional manner and also develop and adhere to written protocols to ensure public resources are properly tracked and appropriated.

LICENSEE agrees to follow the policies and directives of the CITY's Recreation Programs Administrator but in the absence thereof, LICENSEE shall exercise reasonable judgment in discharging its duties hereunder. LICENSEE understands and agrees that LICENSEE shall plan, administer, pay for and coordinate all aspect of the Program, including, but not limited to, all required staffing, tools and materials.

B. LICENSEE's Responsibility for Damage or Loss of CITY Property. A representative of the CITY and LICENSEE shall inspect and document by photographs the condition of the Property prior to set up and after cleanup of Program. CITY expects the Property to be restored to the same condition which existed prior to set up of the Program.

If the Property or any portion thereof, or any structure attached thereto, or any equipment, fixture, or other item located thereon, including the grass or asphalt, shall be destroyed, damaged, marred, altered, or physically changed during the term in any manner whatsoever, then CITY will take the necessary remedial action to cause such repair or replacement to occur and LICENSEE shall pay CITY for any such expenditures within two (2) weeks after receipt of CITY's written invoice for same.

C. LICENSEE Responsible for all Contracts. LICENSEE agrees to be solely responsible for all contracts or agreements of any nature for the Program. All contracts shall be negotiated by LICENSEE and secured at LICENSEE's sole expense. CITY shall not be named as a party in any contract and CITY shall have no obligation to ensure payment to any individual or entity for goods and/or services provided in conjunction with the Program.

D. Required Licenses, Permits and Authorizations. LICENSEE, at its sole expense, shall obtain all required federal, state, local and other governmental approvals, as well as all necessary private authorizations and permits required attendant to LICENSEE's performance hereunder and provide CITY a copy of same a minimum of three (3) business days prior to set up of the Program on the Property. Ignorance on LICENSEE's part of any applicable laws, regulations or required authorizations shall not relieve LICENSEE from this responsibility.

If applicable LICENSEE shall provide sanitary and food facilities in accordance with applicable laws and regulations of the Florida Department of Environmental Protection and the Broward County Health Department. If LICENSEE is unable to obtain all necessary licenses,

Exhibit 1
Original Agreement

permits or other authorizations in a timely manner, either party may elect to terminate this Agreement and CITY shall be reimbursed for any in-kind services it has incurred to date.

E. Compliance With all Laws. In the conduct of its activities under this License Agreement, LICENSEE shall comply with all applicable federal and state laws and regulations and all applicable county and city ordinances and regulations, including, but not limited to, compliance with the Americans with Disabilities Act. Ignorance on LICENSEE's part of any applicable laws and regulations shall in no way relieve LICENSEE from this responsibility.

F. Emergency Access. LICENSEE agrees to provide any and all emergency access required by the CITY and its employees for the safety and welfare of the community and those attending the activities. If, in the course of LICENSEE's operations, CITY or its officers, agents and employees become aware of any condition on the Property which may be dangerous, upon being notified, LICENSEE shall immediately correct such condition or cease operations so as not to endanger persons or property.

G. LICENSEE, its subcontractors, vendor and other agents shall be responsible to pay any and all sales taxes and other charges of any nature or kind, which may be assessed against their provision of goods and services under this Agreement. Proof of such sales tax payments shall be submitted to the CITY's Recreation Program Administrator upon request.

H. LICENSEE is responsible for hiring and managing its own staff, subcontractor and other agents, all of which shall be a minimum of eighteen (18) years old, under LICENSEE's exclusive direction and control and not deemed agents or employees of the CITY.

I. LICENSEE shall be solely responsible for compensating its employees, representative and other agents and complying with all federal, state and local laws, ordinances and regulations pertaining to employment of such persons, including, but not limited to, provision of workers' compensation insurance and any other benefits required by law.

J. LICENSEE shall be responsible to ensure that all its employees, staff or other agents are suitable for employment in a municipal facility in terms of general character, knowledge, ability, manner and conduct.

K. LICENSEE shall maintain, and be required to verify, that it operates a "Drug Free Workplace" as set forth in § 287.087, Florida Statutes.

L. LICENSEE shall utilize the Property exclusively for the activities described herein and not allow any part thereof to be used for any immoral or illegal purposes. LICENSEE shall not allow, suffer or permit the Property to be used for any purpose, business, activity, use or function to which the CITY objects, including gambling.

M. LICENSEE shall immediately inform the CITY's Recreation Program Administrator of any repairs or maintenance necessary to keep the PROPERTY in good and safe condition.

Exhibit 1
Original Agreement

N. LICENSEE shall promptly respond to concerns raised by Program patrons and the CITY's agents hereunder and timely take appropriate action as warranted by the circumstances.

O. LICENSEE is responsible to provide CITY any in-kind benefits listed in Exhibit A.

P. LICENSEE is responsible for any fees, taxes or levies imposed as a result of this Agreement.

ARTICLE 7
RESPONSIBILITIES OF CITY

CITY is responsible to maintain the Property and surrounding outdoor areas, including the building systems (E.g. plumbing, electrical, painting, ceilings, walls, floors, roof, public restrooms, etc.) and general maintenance (E.g. shrubbery and lawn care, garbage pickup, etc.); however, the foregoing provisions are in no way intended to absolve LICENSEE from the responsibilities set forth in Article 6.

ARTICLE 8
MISCELLANEOUS TERMS AND CONDITIONS

A. Articles Left on Premises. LICENSEE understands and agrees that the CITY shall not in any way be responsible for any personal property of patrons of the Program or LICENSEE, its sub-contractors or other agents left on the Property and that LICENSEE bears any and all risk of loss. Any article(s) remaining on the Property at the conclusion of the Program shall become the property of the CITY.

B. CITY's Right To Make Improvements, Modify the Property and the Number and Manner of Streets Closures. Throughout the term of this license and notwithstanding any other term or condition herein, CITY retains the right, in its sole discretion, to modify and reconfigure the Property, including, but not limited to, attendant green and open space areas and the public right-of-way. Specifically, both parties agree that the public right-of-way and open and green space areas may be temporarily or permanently relocated, reconfigured, modified or closed at CITY's sole discretion. LICENSEE agrees to make adjustment to any such changes implemented by CITY.

C. Incorporation by Reference. All Whereas clauses stated above are true and correct and are incorporated herein by reference. The Exhibits attached hereto are also incorporated into and made a part of this Agreement.

ARTICLE 9
INDEMNIFICATION OF CITY

Exhibit 1
Original Agreement

A. LICENSEE shall at all times indemnify, hold harmless and defend the CITY its officers and its authorized agents and employees hereunder from and against any and all claims, demands, suit, damages, attorneys' fees, fines, penalties, defense costs or liabilities arising directly, indirectly or in connection with this agreement and with LICENSEE's officers, staff or other agents' actions, negligence or misconduct under this Agreement whether same occurs or the cause arises on or away from the Property except that LICENSEE shall not be liable under this Article for damages arising out of injury or damage to persons or Property arising from the negligence, gross negligence or willful misconduct of the CITY, any of its officers, agents or employees. LICENSEE agrees to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and to bear all costs and expenses related thereto, even if the claim(s) is/are groundless, false or fraudulent. The foregoing indemnification shall not be operative as to any claims by LICENSEE for any causes of action LICENSEE has or may have for breaches or defaults by the CITY under this Agreement.

B. LICENSEE acknowledges and agrees that neither party would enter into this Agreement without this indemnification of CITY by LICENSEE. The parties agree that one percent (1%) of the total compensation paid to Contractor for the work of the contract shall constitute specific consideration to Contractor for the indemnification to be provided under the contract..

C. LICENSEE shall be solely responsible for insuring all stock, inventory, monies or other personal Property at the Property against damage or loss of any nature or kind. LICENSEE acknowledges and agrees that CITY assumes no responsibility whatsoever for any personal property placed at the Property and, with the exception of damages or loss suffered as a result of CITY's negligence, CITY is hereby expressly released and discharged from any and all liability for any loss, injury or damage to persons or property which may be sustained by reason of LICENSEE's presence and occupancy at the Property.

D. The indemnification provisions of this Article shall survive the expiration or early termination of this Agreement.

ARTICLE 10
INDEPENDENT CONTRACTOR

Both CITY and LICENSEE agree that LICENSEE is an independent contractor and not a CITY employee. CITY shall not be liable for any wages, salaries, debts, liabilities or other obligations for LICENSEE's employees, agents or other representatives performing obligations of LICENSEE hereunder. Except as otherwise provided hereunder, neither party is the agent of the other nor is authorized to act on behalf of the other in any matter.

Exhibit 1
Original Agreement

ARTICLE 11
NO DISCRIMINATION

During the performance of this Agreement, LICENSEE agrees not to discriminate against any person on the basis of race, color, religion, sex, age, national origin, ancestry, marital status, physical or mental disability. However, with justifiable cause, LICENSEE maintains the right to refuse patrons or its agents hereunder from participation in the Program.

ARTICLE 12
PUBLIC ENTITY CRIMES ACT

Through execution of this Agreement and in accordance with Section 287.133, Florida Statutes, LICENSEE certifies that it is not listed on the convicted vendors list maintained by the State of Florida, Department of General Services.

ARTICLE 13
NOTICES AND DEMANDS

Whenever it is provided herein that notice, demand, request, or other communication shall or may be given to, or served upon, either of the parties by the other, it must be in writing, sent by certified United States mail with return receipt requested, addressed to the party to whom it is intended at the places designated below until changed by written notice in compliance with the provisions of this Article. For the present, the parties designate the following respective places for giving of notice, to-wit:

For CITY:

CITY Manager
P.O. Drawer 1300
Pompano Beach, Florida 33061
greg.harrison@copbfl.com
(954) 786-4601 office
(954) 786-4504 fax

With a copy to:

Recreation Program Administrator
1801 NE 6th Street
Pompano Beach, Florida 33060
mark.beaudreau@copbfl.com
(954) 786-4191 office
(954) 786-4113 fax

FOR LICENSEE:

William Zimmerman
Living Water Surf School LLC
P.O. Box 8525
Deerfield Beach, Florida 33443
954-673-8933
livingwatersurf@gmail.com

Exhibit 1
Original Agreement

ARTICLE 14
GOVERNING LAW AND VENUE

A. The Agreement shall be governed by the laws of the State of Florida, both as to interpretation and performance. CITY and LICENSEE submit to the jurisdiction of Florida courts and federal courts located in Florida. The parties agree that proper venue for any suit at law or in equity attendant to this Agreement shall be instituted and maintained only in courts of competent jurisdiction in Broward County, Florida.

B. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and in addition to every other remedy given herein, now or hereafter existing at law or in equity or by statute or otherwise.

ARTICLE 15
CONTRACT ADMINISTRATOR

A. The CITY's Recreation Program Administrator or his written designee shall serve as the CITY's Contract Administrator during the performance of services under this Agreement.

B. William Zimmerman shall serve as LICENSEE's Contract Administrator during the performance of services under this Agreement.

ARTICLE 16
NO CONTINGENT FEE

LICENSEE warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for LICENSEE, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for LICENSEE any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

In the event of LICENSEE's breach or violation of this provision, the CITY shall have the right to terminate this Agreement without liability and, at CITY's sole discretion, to recover the full amount of such fee, commission, percentage, gift or consideration.

ARTICLE 17
ATTORNEY'S FEES

In the event of litigation between the parties, the prevailing party shall be entitled to recover all costs of collection, including a reasonable attorney's fees and court costs. The provisions of this paragraph shall survive termination of this Agreement.

Exhibit 1
Original Agreement

ARTICLE 18
FORCE MAJEURE

Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, war, civil disorder, sabotage, accident, flood, acts of God or by any reason of any other matter or condition beyond the control of either party which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall economic hardship or lack of funds be considered an event of force majeure.

If CITY or LICENSEE are unable to perform, or are delayed in their performance of any obligations under this Agreement by reason of any event of force majeure, such inability or delay shall be excused at any time during which compliance therewith is prevented by such event and during such period thereafter as may be reasonably necessary for either party to correct the adverse effect of such event of force majeure.

In order to be entitled to the benefit of this Article, a party claiming an event of force majeure shall be required to give prompt written notice to the other party specifying in detail the event of force majeure and also diligently proceed to correct the adverse effect of any force majeure. The parties agree that, as to this Article, time is of the essence.

ARTICLE 19
WAIVER AND MODIFICATION

A. Failure to insist upon strict compliance with any terms, covenants or conditions of this Agreement shall not be deemed a waiver of such, nor shall any waiver or relinquishment of such right or power at any time be taken to be a waiver of any other breach.

B. CITY and LICENSEE may request changes to modify certain provisions of this Agreement, including increasing or decreasing the scope of services to be provided. However, unless otherwise provided for herein, any such changes must be contained in a written amendment executed by both parties with the same formality of this Agreement.

ARTICLE 20
SEVERABILITY

Should any provision of this Agreement or the application of such provisions be rendered or declared invalid by a court action or by reason of any existing or subsequently enacted legislation, the remaining parts or provisions of this Agreement shall remain in full force and effect.

ARTICLE 21
APPROVALS

Whenever CITY approval(s) shall be required for any action under this Agreement, said approval(s) shall not be unreasonably withheld.

Exhibit 1
Original Agreement

ARTICLE 22
ABSENCE OF CONFLICTS OF INTEREST

Both parties represent they presently have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with their performance under this Agreement and that no person having any conflicting interest shall be employed or engaged by either party in their performance hereunder.

ARTICLE 23
BINDING EFFECT

The benefits and obligations imposed pursuant to this Agreement shall be binding and enforceable by and against the parties hereto.

ARTICLE 24
LICENSE NOT LEASE

Both parties acknowledge and agree this Agreement shall not be deemed a lease of the Property but rather a license granted to LICENSEE by CITY to provide the Program activities, under the conditions and purposes expressed herein and shall not be construed to be a license to engage in any other business upon the licensed premises. LICENSEE understands and agrees that it takes the Property in "as is" condition.

ARTICLE 25
TERMINATION

A. Termination for Convenience of City. Upon thirty (30) calendar days written notice in accordance with Article 14 herein delivered by certified mail, return receipt requested, to LICENSEE, CITY may without cause and without prejudice to any other right or remedy, terminate this Agreement for convenience whenever it determines that such termination is in the best interest of the CITY. If the Agreement is terminated for the CITY's convenience, the notice of termination to LICENSEE shall state so and also define the extent of the termination. Upon receipt of such notice, LICENSEE shall use commercially reasonable efforts to discontinue all services hereunder to the extent indicated on the notice of termination and CITY shall not be responsible for any costs LICENSEE incurs as a result of said termination for convenience.

B. Termination for Cause. Breach or default of any of the covenants, duties, or terms of this Agreement shall be cause for termination, in whole or in part, of this Agreement. In the event of a breach or default, the defaulting party shall be given written notice in accordance with Article 14 herein which describes in reasonable detail the alleged breach or default and seven (7) calendar days to cure same, and either party may avail itself of the informal Default and Dispute Resolution Procedures set forth below or seek other remedies as provided hereunder or by law. If either party claims the other is in default of this Agreement, the parties may, but are not required to, timely schedule a conference or meeting and make every reasonable effort to reach an amicable resolution. Both parties shall be entitled to have representatives present at any such meeting or conference.

Exhibit 1
Original Agreement

If there is a default of any covenant or obligation under this Agreement, the defaulting party shall be given seven (7) calendar days to cure said default after written notice from the other in accordance with Article 14 herein.

If the party receiving written notice of default provides written notice denying same within seven (7) calendar days of receipt or the alleged default has not been remedied within seven (7) calendar days after receipt of written notice and is continuing, either party have the right to terminate this Agreement immediately upon delivery of a written notice to the defaulting party of its election to do so.

ARTICLE 26
NO WAIVER OF SOVEREIGN IMMUNITY

Nothing contained in this Agreement is intended to serve as a waiver of the CITY's sovereign immunity as provided for in §768.28, Florida Statutes.

ARTICLE 27
CITY'S RIGHT TO AUTHORIZE USE OF THE CITY PROPERTY

The CITY, through its Recreation Programs Administrator, reserves the right to authorize use of the CITY Property for special group and /or City functions upon reasonable written notice to LICENSEE.

ARTICLE 28
COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A photocopy, email or facsimile copy of this Agreement and any signatory hereon shall be considered for all purposes as original.

ARTICLE 29
ENTIRE AGREEMENT AND INTERPRETATION

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and both parties agree there are no commitments, agreements or understandings concerning the subject matter herein that are not contained in this Agreement. Accordingly, both parties agree no deviation from the terms herein shall be predicated upon any prior representations or agreements, whether oral or written.

Regardless of which party or party's counsel prepared the original draft and subsequent revisions of this Agreement, both CITY and LICENSEE and their respective counsel have had

Exhibit 1
Original Agreement

equal opportunity to contribute to and have contributed to its contents, and this Agreement shall not be deemed to be the product of, and therefore construed against either party.

It is further agreed the omission of a term or provision contained in an earlier draft of this Agreement shall have no evidentiary significance regarding the contractual intent of the parties and that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document agreed to and executed by authorized representatives of both parties with the same formality of this Agreement.

THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK

Exhibit 1
Original Agreement

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

"CITY":

Witnesses:

Betty J. Moore
Shelly R. Baulthron

CITY OF POMPANO BEACH

By: [Signature]
LAMAR FISHER, MAYOR

By: [Signature]
GREGORY P. HARRISON, CITY MANAGER

Attest:

[Signature]
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

[Signature]
MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 12th day of May, 2017, by **LAMAR FISHER** as Mayor, **GREGORY P. HARRISON** as CITY Manager and **ASCELETA HAMMOND** as CITY Clerk of the CITY of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:



[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Krystal Aaron
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number _____

**Exhibit 1
Original Agreement**

"LICENSEE":

Witnesses:

LIVING WATER SURF SCHOOL LLC, a Florida
Limited Liability Company

C. Kitts
Print Name: Cynthia Kitts

By: [Signature]
WILLIAM ZIMMERMAN, Member-Manager

[Signature]
Print Name: Shangwanette Walker

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 27 day of April, 2017, by William Zimmerman as the Member-Manager of LIVING WATER SURF SCHOOL LLC a Florida Limited Liability Company, on behalf of the company. He is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:

Anne Hollady
NOTARY PUBLIC, STATE OF FLORIDA

Anne Hollady
(Name of Acknowledger Typed, Printed or Stamped)

FF166298
Commission Number

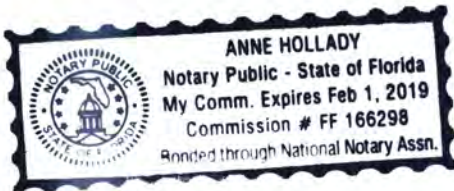


Exhibit 1
Original Agreement
Exhibit A
Scope of Authorization
Living Water Surf School LLC

A. Introduction/Background

The Living Water Surf School, LLC was founded in 2004 and is owned and operated by professional surfer William "Skeeter" Zimmerman. Skeeter and his staff of CPR/First Aid certified instructors offer a wide variety of programs to suit anyone's surfing needs. They teach how to surf safely and with confidence, as well as valuable lessons about ocean awareness and ocean safety. Living Water Surf School is one of a select group of camps throughout the entire United States to receive the high honor of bearing the Quiksilver and Roxy names and the only one in Florida. Skeeter looks forward to sharing his passion with new surfers of all ages as well as experienced surfers wishing to fine tune their skills.

B. Objectives

This program's purpose is to support, promote and assist youth ages 5-16 individuals become confident in the ocean, build self-esteem and share the joy of surfing.

C. Scope of Work

This program will utilize the pavilions 4 and 5 located at North Ocean Park, 3424 NE 16th Street in Pompano Beach to operate the program. This program provides instruction in ocean awareness and surfing fundamentals to include such topics as waves, tides, marine biology, coastal ecology, and beach profiles. Contractor shall provide:

- A safe environment for all campers
- Maintain a 5:1 ratio of instructors to Students
- All Instructors will be certified in CPR and First Aid Certified and will maintain that certification throughout the program duration
- Provide one (1) certified Lifeguard onsite during the duration of the program
- Provide one (1) EMT onsite during the duration of the program

D. Work Breakdown Structure

The term of this agreement will be for one (1) year from the execution of the agreement by both parties. The summer program set up time will begin no earlier than 7:00am and conclude no later than 5:00pm Monday through Friday beginning May 29, 2017 till August 25, 2017, and if additional days throughout the agreement year are requested, LICENSEE must provide a written request to be approved by the Recreation Programs Administrator or designee.

Exhibit 1
Original Agreement
Scope of Authorization
Living Water Surf School LLC



E. Summary Schedule of Tasks and Deliverables

Compensation - LICENSEE shall pay the CITY a fee of \$3,300 payable one week prior to program's commencement as compensation for the use of the CITY's Property and services hereunder.

Inspection - An inspection will be conducted by the CITY prior to the program to ensure that the location is in accordance with the CITY approved site plan. When implementing the site plan LICENSEE shall ensure that no damage is done to landscaping or foliage of the Permitted Area.

Clean-up of Permitted Area - LICENSEE shall be responsible for clean-up of the Permitted Area during and after the program. LICENSEE shall further be responsible for the dismantling and removal of any supplies and equipment.

Parking - Licensee acknowledges that parking shall be available for the public during the event by use of the city's public parking areas and facilities and at no time will parking fees be waived.

Background Checks- LICENSEE, its employees, volunteers; subcontractors and all other agents providing services under this Agreement shall comply with the CITY's Youth Programs Background Screening Policy as set forth in Exhibit D. At least one week prior to LICENSEE or any of its agents providing services under this Agreement, LICENSEE shall provide the CITY's

Exhibit 1
Original Agreement
Scope of Authorization
Living Water Surf School LLC

Contract Administrator a completed and fully-executed Release on all such persons so that CITY, at the cost of LICENSEE, can conduct the background checks required hereunder. CITY reserves the right to refuse to permit LICENSEE or any of its agents to provide services under this Agreement based upon the grounds for disqualification as stated in the Youth Programs Background Screening Policy.

Exhibit 1
Original Agreement

EXHIBIT B

INSURANCE REQUIREMENTS

LICENSEE shall not commence services under the terms of this Agreement until certification or proof of insurance detailing terms and provisions has been received and approved in writing by the CITY's Risk Manager who can be reached by phone at (954) 786-4636 or email cindy.lawrence@copbfl.com should you have any questions regarding the terms and conditions set forth in this Article.

LICENSEE is responsible to deliver to the CITY for timely review and written approval/disapproval Certificates of Insurance which evidence that all insurance required hereunder is in full force and effect and which name on a primary basis, the CITY as an additional insured on all such coverage.

Throughout the term of this Agreement, CITY, by and through its Risk Manager, reserve the right to review, modify, reject or accept any insurance policies required by this Agreement, including limits, coverages or endorsements. CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

Failure to maintain the required insurance shall be considered an event of default. The requirements herein, as well as CITY's review or acceptance of insurance maintained by LICENSEE, are not intended to and shall not in any way limit or qualify the liabilities and obligations assumed by LICENSEE under this Agreement.

Throughout the term of this Agreement, LICENSEE and all subcontractors or other agents hereunder, shall, at their sole expense, maintain in full force and effect, the following insurance coverages and limits described herein, including endorsements.

A. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440. LICENSEE further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

B. Liability Insurance.

(1) Naming the City of Pompano Beach as an additional insured as CITY's interests may appear, on General Liability Insurance only, relative to claims which arise from LICENSEE's negligent acts or omissions in connection with LICENSEE's performance under this Agreement.

(2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

Type of Insurance

Limits of Liability

Exhibit 1
Original Agreement

GENERAL LIABILITY: Minimum \$1,000,000 Per Occurrence and
\$2,000,000 Per Aggregate

* Policy to be written on a claims incurred basis

XX comprehensive form	bodily injury and property damage
XX premises - operations	bodily injury and property damage
— explosion & collapse	
— hazard	
— underground hazard	
XX products/completed	bodily injury and property damage combined
— operations hazard	
XX contractual insurance	bodily injury and property damage combined
XX broad form property damage	bodily injury and property damage combined
XX independent LICENSEEs	personal injury
XX personal injury	

XX sexual abuse/molestation Minimum \$100,000 Per Occurrence and Aggregate

AUTOMOBILE LIABILITY: In an amount acceptable to the City's Risk Manager

XX comprehensive form

XX owned

XX hired

XX non-owned

REAL & PERSONAL PROPERTY

— comprehensive form Agent must show proof they have this coverage.

EXCESS LIABILITY		Per Occurrence	Aggregate
— other than umbrella	bodily injury and property damage combined	\$1,000,000	\$1,000,000

PROFESSIONAL LIABILITY	Per Occurrence	Aggregate
— * Policy to be written on a claims made basis	\$1,000,000	\$1,000,000

(3) If Professional Liability insurance is required, LICENSEE agrees the indemnification and hold harmless provisions set forth in the Agreement shall survive the termination or expiration of the Agreement for a period of three (3) years unless terminated sooner by the applicable statute of limitations.

C. Employer's Liability. If required by law, LICENSEE and all subcontractors shall, for the benefit of their employees, provide, carry, maintain and pay for Employer's Liability Insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per employee, Five Hundred Thousand Dollars (\$500,000) per aggregate.

Exhibit 1
Original Agreement

D. Policies: Whenever, under the provisions of this Agreement, insurance is required of the LICENSEE, the LICENSEE shall promptly provide the following:

- (1) Certificates of Insurance evidencing the required coverage;
- (2) Names and addresses of companies providing coverage;
- (3) Effective and expiration dates of policies; and
- (4) A provision in all policies affording CITY thirty (30) days written notice by a carrier of any cancellation or material change in any policy.

E. Insurance Cancellation or Modification. Should any of the required insurance policies be canceled before the expiration date, or modified or substantially modified, the issuing company shall provide thirty (30) days written notice to the CITY.

F. Waiver of Subrogation. LICENSEE hereby waives any and all right of subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then LICENSEE shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy not specifically prohibiting such an endorsement, or voids coverage should LICENSEE enter into such an agreement on a pre-loss basis.

Exhibit 1 Original Agreement



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/26/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Frazier Insurance Agency, Inc. P.O. Box 1250 Midlothian, VA 23113-1250	CONTACT NAME: Frazier Insurance Agency, Inc. PHONE (A/C. No. Ex): (804) 754-7610 FAX (A/C. No.): (804) 754-7613 E-MAIL ADDRESS: ifrazier@frazierinsurance.com INSURER(S) AFFORDING COVERAGE INSURER A: United States Fire Insurance Company NAIC # 21113 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Sports & Recreation Providers Assn. Risk Management, Inc. Living Water Surf School, LLC PO Box 8525 Deerfield Beach, FL 33441	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR. LTR.	TYPE OF INSURANCE	ADOL. INSR.	SUBR. WVD.	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> INCLUDES ATHLETIC PARTICIPANTS GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			SRPGPM-101-0715	06/04/2016	06/04/2017 12:01 AM	GENERAL AGGREGATE \$ 2,000,000.00
			PRODUCTS - COMP/OP AGG \$ 2,000,000.00				
			PERSONAL & ADV INJURY \$ 1,000,000.00				
			EACH OCCURRENCE \$ 1,000,000.00				
			FIRE DAMAGE (Any one fire) \$ 300,000.00				
							MED EXP (Any one person) \$ 5,000.00
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALLOWED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTO <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Es accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			APPROVED			EACH OCCURRENCE \$ AGGREGATE \$ \$
A	Sexual Abuse/Molestation			SRPGPM-101-0715	08/04/2016	08/04/2017 12:01 AM	EACH OCCURRENCE \$ 100,000.00 AGGREGATE LIMIT \$ 100,000.00 \$

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 POLICY DEDUCTIBLE: \$0.00 PER EACH BODILY INJURY OR PROPERTY DAMAGE CLAIM.

Certificate Holder is An Additional Insured, But Only As Respects The Operations Of The Named Insured.

CERTIFICATE HOLDER City of Pompano Beach 100 W Atlantic Blvd Pompano Beach, FL 33066 DATE: <u>05-26-16</u> BY: <u>[Signature]</u>	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <p style="text-align: right;">John W. Frazier</p>
---	---



Exhibit 1
Original Agreement

Parks, Recreation & Cultural Arts Department

City of Pompano Beach, Florida
1801 NE 6 Street, Pompano Beach, Florida 33060 | p: 954.786.4111 | f: 954.786.4113

April 26, 2017

William Zimmerman
Living Water Surf School, LLC
900 SE 14 Court
Deerfield Beach, FL 33441

Dear William,

Your company has fewer than four employees, and you have elected not to purchase Workers' Compensation insurance to cover these employees. The State of Florida allows your company to operate without insurance, however, you are required by the State to "post clear written notice in a conspicuous location at each worksite directed to all employees and other persons performing services at the worksite of their lack of entitlement to benefits" as described in Chapter 440 of the Florida Statutes.

The City of Pompano Beach requires: **ALL CONTRACTORS MUST AGREE TO BE RESPONSIBLE FOR THE EMPLOYMENT, CONTROL AND CONDUCT OF THEIR EMPLOYEES AND FOR ANY INJURY SUSTAINED BY SUCH EMPLOYEES IN THE COURSE OF THEIR EMPLOYMENT.**

Please sign the area below acknowledging your compliance with the above requirements. Return this original letter to me at the Emma Lou Olson Civic Center, 1801 NE 6 Street, Pompano Beach, FL 33060. If you have any questions about this letter please telephone me at 954-786-4111.

Very truly yours,

Kaitlyn Kerr

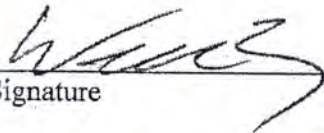
Kaitlyn Kerr
Recreation Supervisor

APPROVED

C. Lawrence

By Cindy Lawrence at 10:30 am, May 01, 2017

Living Water Surf School, LLC has posted notice(s) declaring the absence of Workers' Compensation insurance coverage, as required by the State of Florida Living Water Surf School, LLC. agrees to be responsible for the employment, control and conduct of our employees and for any injury sustained by such employees in the course of their employment.


Signature

4/27/17
Date

William Zimmerman, Owner/Director
Name and Title (print)

GEICO

Exhibit 1
GOVERNMENT EMPLOYEES INSURANCE COMPANY
Original Agreement

Washington DC

VERIFICATION OF COVERAGE
(SEE BELOW UNDER CAUTIONARY NOTE)

INSURED

WILLIAM ROBERT ZIMMERMAN
900 SE 14TH CT
DEERFIELD BCH, FL 33441-7409

Policy Number: 4473927533
Effective Date: 01-26-17
Expiration Date: 07-26-17
Registered State: FLORIDA

To whom it may concern:

This letter is to verify that we have issued the policyholder coverage under the above policy number for the dates indicated in the effective and expiration date fields for the vehicle listed. This should serve as proof that the below mentioned vehicle meets or exceeds the financial responsibility requirement for your state.

This verification of coverage does not amend, extend or alter the coverage afforded by this policy.

Vehicle Year: 2012
Make: GMC
Model: SIERRA
VIN: 1GT125E8XCF113370

COVERAGES	LIMITS	DEDUCTIBLES
BODILY INJURY LIABILITY	\$50,000/\$100,000	
PROPERTY DAMAGE LIABILITY	\$50,000	
MEDICAL PAYMENTS	\$10,000	
PERSONAL INJURY PROTECTION	BASIC	NON-DED/INSD&REL
UNINSURED MOTORIST/STACKED	INSURED REJECTS	
COMPREHENSIVE		\$500 DED
COLLISION		\$500 DED
EMERGENCY ROAD SERVICE	FULL	NON-DED
RENTAL REIMBURSEMENT	\$35/DAY-\$1050 MAX	

☒ Lienholder ☐ Additional Insured ☐ Interested Party

BB&T INSURANCE CENTER
P.O. BOX 25610C
CHARLOTTE, NC 28229-5610

Additional Information:

Issued 05/01/2017

If you have any additional questions, please call 1-800-841-3000.

CAUTIONARY NOTE: THE CURRENT COVERAGES, LIMITS, AND DEDUCTIBLES MAY DIFFER FROM THE COVERAGES, LIMITS, AND DEDUCTIBLES IN EFFECT AT OTHER TIMES DURING THE POLICY PERIOD. THIS VERIFICATION OF COVERAGE REFLECTS THE COVERAGES, LIMITS AND DEDUCTIBLES AS OF THE ISSUED DATE OF THIS DOCUMENT WHICH IS SHOWN UNDER "ADDITIONAL INFORMATION" OR IF AN ISSUED DATE IS NOT SHOWN, THE DATE OF THIS FACSIMILE.

U-33 10-07

APPROVED

C. Lawrence
By Cindy Lawrence at 3:02 pm, May 01, 2017

Exhibit 1
Original Agreement

Exhibit C

Accounting and Recordkeeping Procedures:

1. Upon reasonable notice, LICENSEE shall make available locally at a reasonable time for CITY's examination, inspection and audit all membership rosters; attendance, financial and statistical records; federal/state tax returns; and any other documents or records directly or indirectly related to LICENSEE's provisions of goods and services . LICENSEE's failure to timely comply with the provisions of this paragraph shall be deemed a material breach which entitles CITY to terminate this Agreement in accordance with Article 25.
2. LICENSEE shall be required to record and preserve complete and accurate records for all activities and revenues generated under this Agreement for a period of five (5) years after its termination or as otherwise required by applicable law(s), including the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes. However, if an audit has been initiated and audit findings have not been resolved, the record shall be retained until resolution of the audit findings.

**Exhibit 1
Original Agreement
Exhibit D**

**CITY OF POMPANO BEACH
ADMINISTRATIVE POLICY**

TITLE:	Youth Program Background Screening Policy	Number:	500.06
		Effective:	3-10-04
		Revised:	8-27-07
		Revised:	7-23-08
		Revised:	8-2-10

In an effort to ensure that the City of Pompano Beach provides a safe place for children to learn and enjoy recreation programs, and in an effort to acquire and retain volunteers and instructors who are more likely to safely interact with participants in programs, the Parks and Recreation Department will conduct criminal background screening on all prospective volunteers and instructors, and based upon the recommended guidelines for credentialing set by the National Recreation and Park Association, shall establish and enforce criteria for disqualification of applicants.

(1) The following shall constitute grounds for disqualification of an applicant:

- (a) The applicant has been found guilty of any of the following crimes listed below:

“Guilty” means that a person was found guilty following a trial, entered a guilty plea or entered a no contest plea, accompanied by a court finding of guilt, regardless of whether there was an adjudication of guilt (conviction) or a withholding of guilt. Acquittal, Nolle Prose, or dismissal of charges shall not be included in said definition:

1. SEX OFFENSES INVOLVING CHILDREN

>All Sex Offenses and Offenses involving children or the abuse of children – regardless of the amount of time since offense. Examples include but are not limited to child molestation, rape, sodomy, prostitution, indecent exposure.

2. FELONIES

>All Felony Offenses involving violence – regardless of the amount of time since the offense. Examples include but are not limited to: murder, attempted murder, manslaughter, aggravated battery, aggravated assault, kidnapping, robbery.

**Exhibit 1
Original Agreement**

**CITY OF POMPANO BEACH
ADMINISTRATIVE POLICY**

PAGE 2

TITLE:	Youth Program Background Screening Policy	Number:	500.06
		Revised:	8-2-10

>All Felony Offenses, other than those for violence, sex, or offenses involving children, within the past seven (7) years of the date of the application. Examples include but are not limited to: drug offenses, theft.

3. MISDEMEANORS

>All Misdemeanor offenses involving violence within the past five (5) years of the application date. Examples include but are not limited to: simple battery, assault, domestic violence.

>Any three (3) or more Misdemeanor drug offenses or alcohol offenses, or any combination of same within the past five (5) years of the application date. Examples include, but are not limited to, driving under the influence, possession of marijuana, disorderly conduct, possession of drug paraphernalia.

>Any other Misdemeanor offense within the past five (5) years of the application date that would be considered a potential danger to children or that is directly related to the function of that coach. Examples include but are not limited to contributing to the delinquency of a minor, providing alcohol to a minor, petty theft of money.

- (b) Pending prosecution of offenses listed under subsection (a.) above.
- (c) Falsification of any requested information on the application.


**Exhibit 1
Original Agreement**

**CITY OF POMPANO BEACH
ADMINISTRATIVE POLICY**

PAGE 3

TITLE:	Youth Program Background Screening Policy	Number:	500.06
		Revised:	8-2-10

- (d) Any person who at the time of the application is serving a period of Community Control or probation for any offense. No such person shall be eligible until all supervision has terminated and all provisions of the sentence have become final.


Dennis W. Beach, City Manager